HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 17264 OF 2005.

ORAL ORDER:

1. Heard learned counsel for the petitioner and learned Government Pleader for Excise.

2. Writ petition is filed for release of Mahindra & Mahindra Savari Jeep bearing registration No.AP.23V-765. The Jeep was intercepted for involvement in an excise offence, namely, illegal transportation of huge quantity of Chloral Hydrate (31 bags), each containing 28 kgs. Crime No.25/2005 was registered on 08.06.2005 under Section 34(a) of the Andhra Pradesh Excise Act, 1968, and Sections 4 & 5 of the Andhra Pradesh Chloral Hydrate Rules, 1973. The petitioner made a representation before the Deputy Commissioner of Prohibition & Excise, Nizamabad, for release of the vehicle claiming to be the owner while at the same time stating that he has sold the vehicle to one Raju Goud and also handed over the vehicle to the purchaser. By order dated 15.07.2005 the Deputy Commissioner rejected the petitioner's plea for release of the vehicle. As against the said order, the petitioner preferred an appeal to the first respondent on 23.07.2005. After having preferred the appeal and while it is pending, the petitioner has filed the present writ petition seeking invalidation of the Deputy Commissioner's order dated 15.07.2005 and making a request for release of the vehicle.

3. The writ petition is misconceived. The petitioner cannot challenge the order of rejection passed by the second respondent, which is subject-matter of appeal before the first respondent, after having preferred the appeal. The petitioner must await the determination of the appeal by the first respondent, or should, if so advised, have approached this Court against the order of the second respondent, in the first instance. On the analysis, the writ petition is dismissed. No costs.

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GODA RAGHURAM. J.,

Dated: 05.08.2005.

VRK.

HON'BLE SRI JUSTICE

GODA RAGHURAM

W.P.NO. 17264 OF 2005.

Dt: 05.08.2005.

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